



Restitution ordered in child pornography case

When a federal judge sentenced **Jose Hilario** to 150 months in prison for possessing and distributing child pornography, she also ordered him to pay \$25,000 restitution to one of the young girls depicted in the pornographic images that Hilario collected and traded. It was the first time restitution was ordered in a child pornography case in federal court in Rhode Island.

The victim, identified in court papers as “Amy,” was one of 109 identified victims among more than 85,000 pornographic images that FBI agents seized from Hilario’s computer equipment. The identification was made by the National Center for Missing and Exploited Children (NCMEC), which works with the FBI to identify victims who had been subject to child pornographic exploitation..

Acting under 18 U.S.C. § 2259, a federal statute providing for mandatory restitution for offenses involving the sexual exploitation of children, Amy filed a restitution request against Hilario. The statute provides for restitution of costs that victims incur for medical services relating to physical, psychiatric or psychological care, physical and occupational therapy or rehabilitation, and other associated expenses, including attorneys’ fees.

In a memorandum filed with the court prior to sentencing, Assistant U.S. Attorney Terrence P. Donnelly maintained that the mandatory restitution should apply in the Hilario case. He argued that statute anticipated such restitution because by collecting and trading the pornographic images, the defendant perpetuated the victimization of Amy and others. A Senate committee report published when the statute was being considered by Congress stated as much: “the pornography may harm (a victim) in future years, long after the original misdeed took place.” In New York v Ferber, the Supreme Court upheld a ban of the distribution of child pornography, holding that its distribution and use harms child victims and are “intrinsically related” to sexual abuse. In Aschcroft v. Free Speech Coalition, the Court held that “each new publication... would cause new injury to the child’s reputation and emotional well-being.”

Amy, who is now an adult, stated in her victim impact statement that a relative subjected her to sexual abuse she was eight or nine years old, and that the relative produced images of that

abuse at the request of another pedophile. She states that the images of her abuse have been received, possessed and distributed by innumerable collectors over the past decade.

There is a lot I don't remember, but now I can't forget because the disgusting images of what he did to me are still out there on the Internet...

It is hard to describe what it feels like to know that at any moment, anywhere, someone is looking at pictures of me as a little girl being abused by my uncle and is getting some kind of sick enjoyment from it. It's like I'm being abused over and over again.

An irony of the Hilario case is that, in addition to trading and collecting child pornography, he boasted in a computerized diary that he would never get caught.

"I'm above the law for getting away with the crimes of possessing, distributing, producing, enjoying and possessing private child pornographic...

But I know I will never get caught I'm (sic) too clever & smarter than the FBI or Police they are just puppets under my toes."

Hilario's undoing began when Australian police notified the FBI about a chat room in which a collector was seeking child pornography. That lead led the FBI to a resident of Kissimmee, Florida and then to other collectors & traders, including Hilario, who has a college degree in computer science.

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